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PURPOSE OF THE CANADA/U.S. LAW INSTITUTE

*Sidney Picker, Jr.**

I am Sidney Picker, Jr., a member of the faculty at Case Western Reserve University Law School. I am also Chair of the Canada-United States Law Institute's Advisory Board as well as the Institute's founder and initial U.S. director. It is my pleasure to welcome you to this, the 1999 Annual Conference on *The Impact of Technological Change in the Canada-U.S. Context*. The conference will help us focus on a set of high-tech issues both countries will face as they prepare for their 21st Century relationship.

Professor Henry King, the U.S. Director of the Institute, has asked me to don my founder's cap and briefly describe the origins and activities of the Canada-United States Law Institute for those of you otherwise unfamiliar with the organization.

The Canada-United States Law Institute was established twenty-three years ago, in 1976. The Institute is a binational entity, the joint creation of the law schools of Case Western Reserve University in Cleveland, Ohio, and the University of Western Ontario in London, Ontario. It has two directors, one at each of the two campuses. They are Professor Henry King, the U.S. Director, who has served in that position since succeeding me in 1983, and Professor Constance Backhouse, who is just now completing her first year as Canadian Director. We are delighted to have Professor Backhouse with us today. Though new as Canadian Director, Professor Backhouse is a long-time supporter of the Institute, having visited Case Western Reserve University Law School on the faculty exchange program since the early days of the Institute. She has also written for its *Canada-United States Law Journal*.

The Institute was the first academic organization in either country designed with the following two missions in mind: to explore legal issues affecting the special constellation of Canada-U.S. relationships; and to examine each other's legal structures and processes in order to provide comparative law opportunities for the students and faculties of both participating law schools as well as for the public and private bar in both countries.

With respect to the first of these missions, it is interesting to note that at the time of the *Journal's* establishment in 1976, there were few organizational legal structures beyond the Great Lakes Commission and the Auto Pact

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designed to manage the Canada-U.S. relationship. However, in the succeeding twenty-three years we have seen the establishment of a number of international institutional arrangements designed to manage that bilateral relationship, and indeed to expand it to a trilateral relationship (in the case of NAFTA), and, inevitably in the 21st century, to what will be a multilateral hemispheric relationship, current U.S. policies notwithstanding.

With respect to the second mission, the two countries provide a fertile foundation for maximizing comparative law opportunities. On the one hand, they have a great deal in common, including history, geography, a cultural and political heritage, language, and economy. Thus, students in either country have ready access to, and little difficulty understanding, the relevant literature of the other, and they can readily relate to the societal issues under examination.

On the other hand, Canada and the United States are sufficiently different as to maximize the benefits of comparative analysis. Thus, while both countries have constitutions and federal systems, they are not alike. These in turn shape unique legal solutions to similar social, economic, and political problems. An examination of the other country's legal solutions offers a better understanding of one's own national legal solutions.

In order to accomplish the two basic purposes of the Institute, six separate programs have been established which are operated with varying degrees of regularity. These include:

- An exchange of law students between the two participating law schools whereby students from each country may take for full credit one of their six law school semesters in the law school of the other country.
- An exchange of faculty members between the two participating law schools, both for brief (two days to two weeks) and extended (semester to year-long) visits. The University of Western Ontario recently provided an additional exchange opportunity when it adopted a special January intensive single-course "intermester" requirement and invited our faculty to participate.
- The publication of the first scholarly law journal in either country devoted exclusively to issues of common interest to practitioners, scholars, and public service personnel in both countries, the *Canada-United States Law Journal*. Prof. Backhouse, the new Canadian Director, was an early contributor to this *Journal*. The *Journal* publishes the proceedings of Institute-sponsored conferences, such as the present one.
- The sponsorship of an international moot court competition, the so-called Niagara International Moot Court Competition, involving U.S.

and Canadian law schools which always poses a hypothesized problem involving Canada and the United States argued before the International Court of Justice, also known as the World Court. In recent years, the number of participating law schools has expanded, literally from coast to coast, causing some to note that the name “Niagara” assumes historical rather than descriptive significance.

- The sponsorship of scholarly research on comparative law and international law issues affecting both countries; and
- The organization of conferences on subjects of common interest to both countries.

The current conference falls within the final program. The Institute has sponsored periodic conferences since its inception in 1976 whenever a subject matter seemed timely and appropriate.

Such conferences were usually of shorter duration than the conference you are now attending. An early example of this type of conference in the Institute’s history was 1979’s *Comparison of the Role of The Supreme Court in Canada and the United States*, which included a panel consisting of Canadian Supreme Court Justice Brian Dickson and U.S. Supreme Court Justice Potter Stewart. It was Justice Dickson who pointed out that, until that conference, members of the two Supreme Courts had never been called on to participate in any program of any kind. Since then, such meetings have happened periodically in both countries. The Institute is proud to have initiated these court-to-court contacts.

The Institute continues to sponsor such conferences. Earlier this month, on April 7, 1999, the Institute, together with the Cleveland Council on World Affairs and the Washington-based Lawyers Alliance for World Security, presented a half-day conference on *Nuclear Arms Control, Non-Proliferation and Disarmament in the Post-Cold War Security Environment*. Participants included a trio of special ambassadors to deal with nuclear weaponry, Canada’s Peggy Mason, America’s Thomas Graham, and Mexico’s Perla Carvalho-Soto, with a dinner speech broadcast on public radio by retired Air Force General Charles Horner, Commander of Air Forces in the 1991 Gulf War.

In 1983, after Henry King succeeded to the Institute, he introduced something different – an *annual* conference. The nature of the annual conference would allow the Institute to take on a more significant tack, by focusing on various aspects of the Canada-United States economic relationship. More important, the annual conference format was modified to provide a more intensive (as well as extensive) experience. That meant probing in greater depth, requiring advanced preparation, and circulating extensive background materials at the opening of the conferences. It also meant extending the

length of time for the conference, and scheduling it in an environment designed to promote both structured and informal interaction among participants and attendees. You are today a participant in that tradition.

The Institute owes a debt of gratitude to many individuals and organizations who have supported its various activities during the past twenty-three years, both financially and intellectually. Included are the Canadian Embassy in Washington, D.C., as well as the Canadian Consulates General, first in Cleveland, Ohio, and later, after that office was closed, in Detroit, Michigan. In addition, private nonprofit institutions in both countries have contributed generously since the Institute's establishment. These include the William H. Donner Foundation, the Gund Foundation, the Cleveland Foundation, the Richard G. Ivey Foundation, and the Ontario Bar Foundation.

As the founder of this Institute, I in turn owe a particular debt to the person I am about to introduce, Professor Henry King, the current U.S. Director of the Institute. At the time I first formulated the Institute concept, Henry was Chief Corporate International Counsel at TRW. As an academic inexperienced in the ways of establishing such special-focused organizations, I turned to, and relied extensively on, Henry's organizational skills as well as his substantial knowledge of Canadian affairs.

Professor King's background, as you all know, is extraordinary. He has served as Chairman of the Section of International Law and Practice of the American Bar Association as well as U.S. Chairman of the Joint American Bar Association-Canadian Bar Association Working Group on the Settlement of International Disputes between Canada and the United States. More recently, he served as U.S. Chair of the Joint American Bar Association-Canadian Bar Association-Barra Mexicana Working Group on the Settlement of International Disputes. What you may not know is that Henry's legal career started out with his membership on the prosecuting team at the Nuremberg war crimes trials in Germany after World War II, about which he wrote a book, *The Two Worlds of Albert Speer*,¹ published by University Press. His interest in international human rights is ongoing. As a member of the non-governmental organization called "Former Nuremberg Prosecutors," he participated in the NGO Coalition for an International Criminal Court at Rome last year during the negotiations for the recent treaty establishing a permanent international criminal court. This is a subject about which he feels keenly, and has spoken about regularly and forcefully ever since.

It is a great pleasure for me, therefore, to present to you the U.S. Director of the Institute, Henry King.

¹ HENRY T. KING, JR., *THE TWO WORLDS OF ALBERT SPEER: REFLECTIONS OF A NUREMBERG PROSECUTOR* (University Press of America, 1997).